

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

DONNA CURLING, *et al.*

*Plaintiffs,*

v.

BRAD RAFFENSPERGER, *et al.*,

*Defendants.*

CIVIL ACTION

FILE NO. 1:17-cv-2989-AT

**STATE DEFENDANTS' REQUEST FOR STATUS CONFERENCE**

Defendants Secretary of State Brad Raffensperger, State Election Board, and State Election Board Members (collectively, "State Defendants") request a status conference with the Court to address the current Scheduling Order [Doc. 418] in this case and to obtain direction from the Court related to the preservation and decertification of the DRE/GEMS voting system.

This Court entered a Scheduling Order [Doc. 418] on June 21, 2019, which set the close of fact discovery on November 15, 2019, the deadline for opening expert reports on November 22, 2019, and required the parties to be trial ready in January 2020. Discovery on Plaintiffs' claims about the DRE/GEMS system has now closed, and no expert reports have been filed. In light of the Amended and Supplemental Complaints filed by Plaintiffs [Docs. 627, 628] and the various motions pending before the Court, trial readiness in

January 2020 is doubtful. Accordingly, State Defendants request that the Court remove this case from the January trial calendar.

In addition to scheduling, State Defendants believe a status conference is needed to discuss the preservation of the DREs, GEMS, and other voting equipment referenced in the Court's recent Order [Doc. 668]. The Court ordered State Defendants "to preserve all GEMS servers, DREs, memory cards, AccuVote scanners, and Express Poll books until further order of the Court in the event a forensic examination is deemed necessary at some point for purposes of this litigation." [Doc. 668 at 3.] Requiring State Defendants to warehouse and preserve all of the old voting equipment (numbering in the tens of thousands of DREs alone), even after decertification by the Secretary of State, creates practical and logistical problems as well as additional cost to state taxpayers.

Due to this litigation, State Defendants' vendor has preserved the old election equipment collected to date.<sup>1</sup> However, State Defendants are concerned that preserving all of the equipment for an indefinite amount of time will result in a shortage of storage space, which could cause a delay in

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<sup>1</sup> State Defendants will not seek to reinstate the use of DRE/GEMS system through any appeal of this Court's August 15 injunction order, although State Defendants may appeal other aspects of that order after a final judgment is entered in this case.

implementing the new BMDs. After the filing of [Doc. 616], State Defendants continued to work on the implementation process for BMDs. Part of that further planning involved what to do with the old election equipment after it was collected.

It has been State Defendants' plan to seek approval by the Court to allow the Secretary of State's vendor to proceed with securely recycling the old election equipment after the equipment is decertified. The Secretary of State's Office has issued an Official Election Bulletin to county election officials about preserving old voting equipment due to pending litigation and the State's intention for the vendor to recycle the old voting equipment upon approval from this Court to proceed.<sup>2</sup> In light of the Court's recent Order, State Defendants believe that it is necessary to raise this issue now and obtain direction from the Court.

Respectfully submitted this 27th day of November, 2019.

/s/ Vincent R. Russo

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<sup>2</sup> A copy of the Official Election Bulletin issued to the county election officials is attached as Exhibit A.

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**CERTIFICATE OF COMPLIANCE**

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing **STATE DEFENDANTS' REQUEST FOR STATUS CONFERENCE** has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

/s/ Vincent R. Russo  
Vincent R. Russo

**CERTIFICATE OF SERVICE**

I hereby certify that on this day, I electronically filed the foregoing **STATE DEFENDANTS' REQUEST FOR STATUS CONFERENCE** with the Clerk of Court using the CM/ECF system, which will automatically send counsel of record e-mail notification of such filing.

This 27th day of November, 2019.

/s/ Vincent R. Russo  
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